IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08/07/2003

CORAM

THE HON'BLE MR.JUSTICE P.D. DINAKARAN

Writ Petition No.41692 of 2002 and Writ Petition No. 17124 of 2003

Gandhipuram Sarvodhaya Sangam
(Reg. No.41/1977)
rep. by its Secretary
Mr.G.Jayakanthan
270-G, P.N.Pudur
Marudamalai Main Road
Coimbatore-41. .. Petitioner
in WP:41692/02
and 2nd respondent
in WP:17124/03
-Vs-

1. The District Registrar
Office of the District
Registrar, Coimbatore-18. .. 1st respondent
in both Wps.

2. K.Baladhandapani .. 2nd respondent
in WP:41692/02
and Petitioner
in WP:17124/03

PRAYER in WP:41692/02: Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus as stated therein.

PRAYER in WP:17124/03: Petition under Article 226 of the Constitution of India praying for a writ of Mandamus as stated therein.

For Petitioner : Mr.V.Kalyanaraman
in WP:41692/02

and 2nd respondent
in WP:17124/03

For 1st Respondent : Mr.M.S.Palanisamy, AGP
in both Wps.

For 2nd respondent : Mrs.G.Thilakavathi

in WP:41692/02
and Petitioner
in WP:17124/03

:O R D E R

The petitioner in Writ Petition No.41692 of 2002 is the second respondent in Writ Petition No.17124 of 2003, the petitioner in Writ Petition No.17124 of 2003 is the second respondent in Writ Petition No.416 92 of 2002 and the first respondent in both the writ petitions is one and the same, viz., the District Registrar, Coimbatore. Therefore, the parties are arrayed as per the rank in Writ Petition No.17124 of 2003.

2. The petitioner in Writ Petition No.17124 of 2003 in an earlier occasion filed Writ Petition No.24191 of 2002 for issue of a writ of Mandamus to direct the first respondent herein to conduct an enquiry into the affairs of the second respondent Sangam, viz., Gandhipuram Sarvodaya Sangam, exercising the powers conferred under Section 36 of the Societies Registration Act and this Court by order dated 5.7.2002 , permitted the petitioner to make a representation before the first respondent District Registrar within a period of two weeks from 5.7 .2 002 and directed the District Registrar to dispose of the said representation within four weeks from the date of receipt of the representation, after giving an opportunity to the petitioner.

3. Since, in the meanwhile, the second respondent had already conducted election to the office bearers of the Gandhipuram Sarvodaya Sangam on 18.06.2000, the petitioner had made a representation dated 24.7.2002 to the first respondent, questioning the election of the office bearers held on 18.6.2000 as well as the installation of the office bearers, who were elected on 18.06.2000 and also the arbitrary exercise of the powers.

4. On receipt of the representation of the petitioner dated 24.7.200
2, the first respondent by proceedings dated 23.8.2002, proposed to convene a General Body Meeting within four weeks from 23.8.2002 to elect new office bearers in the General Body Meeting and directed the members, who complain mala fide against the newly elected Secretary, to approach the appropriate forum for their redressal.
5. Aggrieved by the proceedings of the first respondent dated 23.8.2

002, the petitioner in Writ Petition No.17124 of 2003 again filed another Writ Petition No.34800 of 2000 for issue of a writ of Certiorarified Mandamus to call for the records of the first respondent dated 2 3.08.2002, quash the same and consequently to direct the second respondent to conduct the election of the Sangam by an Officer appointed by this Court in terms of the bye-laws of the second respondent Society and this Court, by order dated 11.9.2002 in Writ Petition No.34800 of 2002, finding no justification to appoint any Officer to conduct the election of the office bearers of the second respondent Sangam, directed the District Registrar to appoint a suitable Officer to oversee the

election process, so that there cannot be any further violation of the bye-laws of the second respondent Sangam.

6. Pursuant to the directions of this Court dated 11.09.2002, made in Writ Petition 34800 of 2002 filed by the petitioner in Writ Petition No.17124 of 2003, the first respondent by proceedings dated 30.10.2 002, refused to approve the office bearers, who were said to have been elected on 18.6.2000 and consequently, proposed to notify the election date, venue and time to elect new office bearers, in pursuance of the proceedings dated 23.8.2002.

7. However, the second respondent Sangam represented by one Jayakanthan, who was said to have been elected on 16.10.2002, filed Writ Petition No.41692 of 2002 for issue of a writ of Certiorarified Mandamus to call for the records pertaining to proceedings bearing No.24910/ A2/2001, dated 30.10.2002 on the file of the first respondent, quash the same and consequently to direct the first respondent to approve the election held on 16.10.2002 in accordance with the bye-laws of the Gandhipuram Sarvodhaya Sangam and also obtained an order of stay of proceedings of the first respondent dated 30.10.2002 in WMP.No.61662 of 2002 in W.P.No.41692 of 2002 restraining the District Registrar from interfering with the rights of the newly elected office bearers.

8. Alleging that on the strength of the said interim stay dated 20.1 1.2002, the newly elected office bearers are preventing the petitioner in W.P.No.17124 of 2003 to participate in the meetings of the Sangam, the petitioner seeks a writ of Mandamus to direct the first respondent to forbear the newly elected office bearers of the Gandhipuram Sarvodhaya Sangam from interfering with his right to participate in the meetings of the Gandhipuram Sarvodhaya Sangam to be duly supervised by the first respondent herein in terms of the Societies Registration Act. Hence, these writ petitions.

9. During the course of the arguments, even though the first respondent represented by the newly elected Secretary contended that the petitioner in W.P.No.17124 of 2003 was already dismissed from the Sangam by order dated 16.3.2002, a strong objection was made on behalf of the petitioner in W.P.No.17124/03 that the order of dismissal dated 1 6 .3.2002 was not served on the petitioner till date and that the same is illegal and contrary to the principles of natural justice, as no enquiry was conducted before passing the said order of dismissal dated 16.3.2002. However, there is no necessity to go into such controversy, as the newly elected Secretary and his counsel have agreed before this Court to withdraw the order of dismissal dated 16.3.2002, dismissing the petitioner from the second respondent Sangam unconditionally and made an endorsement dated 8.7.2003 to that effect before this Court, which reads as follows:

"The order of dismissal dated 16.03.2003 imposed on Sri.K. Baladhandapani is hereby withdrawn unconditionally."

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10. In view of the above endorsement, there cannot be any objection by the second respondent in Writ Petition No.17124 of 2003 to restrain the petitioner in W.P.No.17124/03 from participating the meetings. The writ petition is, therefore, ordered accordingly.

11. Concededly, the proceedings of the District Registrar dated 23.8 .2002, proposing to hold a fresh election to the office bearers of the second respondent Sangam was not challenged by the newly elected Secretary or any office bearer, who was elected on 18.6.2000 at any point of time. Therefore, the decision of the first respondent dated 23 .8.2002 proposing to convene a General Body Meeting to conduct a fresh election to the office bearers of the Sangam, had become final long time back. If that be so, the proceedings dated 30.10.2002 impugned in Writ Petition No.41692 of 2002, being the consequential proceedings of the decision dated 23.8.2002, which was taken by the first respondent exercising the powers conferred under Section 36 of the Societies Registration Act, it may not be proper for this Court to interfere with such consequential proceedings dated 30.10.2002, which would otherwise create a stalemate in the election process already initiated by the first respondent - District Registrar as early as 23 .8.2002, that remains unchallenged till date.

12. Hence, I am inclined to dismiss W.P.No.41692 of 2002 with a direction to the first respondent to nominate a competent officer to finalise the list eligible members, strictly in accordance with the bye-laws of the Gandhipuram Sarvodhya Sangam, and after satisfying as to the correctness of the orders of dismissal of any of the members in accordance with the provisions of the bye-law, to hold election to the Executive Committee of the Gandhipuram Sarvodhya Sangam within a period of three months from the date of receipt of copy of this order. No costs. Consequently, W.P.M.P.No. 21411 of 2003 is closed.

Index : No
Internet : Yes

sasi/ATR

To:

The District Registrar
Office of the District
Registrar, Coimbatore-18.

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